

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF VERMONT

MOUNT SNOW LTD.,

Plaintiff,

v.

ALLI, the Alliance of Action Sports,
NBC UNIVERSAL MEDIA, LLC,
NBC SPORTS VENTURES LLC,

Defendants.

:
:
:
:
:
:
:
:
:
:
:
:
:

Case No. 1:12-cv-22-jgm

ORDER
(Doc. 141)

The Alliance of Action Sports, NBC Universal Media, LLC, and NBC Sports Ventures LLC, (collectively “Alli”) move for permission to designate an expert accountant. (Doc. 141.) Mount Snow Ltd. opposes this motion. (Doc. 145.) For the reasons below, Alli’s motion is denied.

Discovery closed in this case on February 15, 2013. (Docs. 60, 61.) The parties submitted a joint trial memorandum listing all witnesses -- including experts -- and exhibits on December 17, 2013. (Doc. 124.) Following the pretrial conference on December 23, 2013 (Doc. 135), and after the Court ruled on the remaining pretrial motions three days later (Docs. 139, 140), trial was set to begin on January 6, 2014 (Doc. 103).

Both parties were undeniably ready for trial on January 6, 2014. Alli’s January 9, 2014 motion is not compliant with Local Rule 7(a)(7) and could be denied on that basis alone. More importantly, however, it is untimely. The deadline to designate expert witnesses has come and gone. The Court’s postponement of the start date was by no means intended as a signal to reopen discovery. Permitting the expansion of discovery in this case, at this date -- even given the Court’s postponement -- would be prejudicial to Mount Snow and invariably lead to a continuance. See

Patterson v. Balsamico, 440 F.3d 104, 117 (2d Cir. 2006) (listing factors for consideration). Alli's explanations and arguments to the contrary, see Doc. 141 at 4-5, are unavailing. The Court's Order that "[a]t this late date, it would be unfairly prejudicial to the Plaintiff to permit the presentation of expert testimony or argument by counsel regarding the tax treatment of promotional considerations," stands as previously ordered. (Doc. 140.)

SO ORDERED.

Dated at Brattleboro, in the District of Vermont, this 7th day of February, 2014.

/s/ J. Garvan Murtha
Honorable J. Garvan Murtha
United States District Judge